



Appeals Administration

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*** The Department of Local Government Finance does not get involved in individual property tax assessments or appeals. The following information should not be construed as legal advice, and any legal questions or issues should be directed to your County Attorney.



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I. Definitions:

A. **Market Value-in-Use:** “The market value-in-use of a property for its current use, as reflected by the utility received by the owner or by a similar user, from the property.”

B. **Market Value:** “The most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms, for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress.”



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C. **True Tax Value:** “In the case of agricultural land, the value determined in accordance with the Guidelines adopted by the Department of Local Government Finance. True Tax Value means market value-in-use as defined in this manual.”

D. **Assessment Date:** “March 1st of any year.”

E. **Valuation Date:** “The date as of which a property's value is estimated. The date as of which the **true tax value of the property is estimated. In the case of the 2012 general reassessment, this would be March 1, 2012.**” * For all other assessment dates, e.g. March 1, 2013, the assessment date and valuation date are the same.



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- “True tax value” \neq fair market value.
- “True tax value” = “market value-in-use” of a property for its current use, as reflected by the utility received from the property
- IC 6-1.1-31-6(c) & Manual.



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II. Legislative Update/Changes:

A. SEA 152: SECTION 1. IC 6-1.1-4-4.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]:

Sec. 4.3.

(a) This section applies to real property for which the gross assessed value of the real property was reduced by the property tax assessment board of appeals in an appeal conducted under IC 6-1.1-15. However, this section does not apply for an assessment date if the real property was valued using the income capitalization approach in the appeal.



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A. SEA 152 con't:

(b) This section applies to assessment dates after 2013.

(c) If the gross assessed value of real property for an assessment date that follows the latest assessment date that was the subject of an appeal described in subsection (a) is increased above the gross assessed value of the real property for the latest assessment date covered by the appeal, the county assessor or township assessor (if any) making the assessment has the burden of proving that the assessment is correct.



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B. **SEA 517:** SECTION 6. IC 6-1.1-15-1, AS AMENDED BY P.L.146-2012, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]:

Sec. 1.

(a) A taxpayer may obtain a review by the county board of a county or township official's action with respect to either or both of the following:

- (1) The assessment of the taxpayer's tangible property.
- (2) A deduction for which a review under this section is authorized by any of the following:



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B. SEA 517 con't:

(A) IC 6-1.1-12-25.5.

(B) IC 6-1.1-12-28.5.

(C) IC 6-1.1-12-35.5.

(D) IC 6-1.1-12.1-5.

(E) IC 6-1.1-12.1-5.3.

(F) IC 6-1.1-12.1-5.4.

(b) At the time that notice of an action referred to in subsection (a) is given to the taxpayer, the taxpayer shall also be informed in writing of:

(1) the opportunity for a review under this section, including a preliminary informal meeting under subsection (h)

(2) with the county or township official referred to in this subsection; and



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B. SEA 517 con't:

(2) the procedures the taxpayer must follow in order to obtain a review under this section.

(c) In order to obtain a review of an assessment or deduction effective for the assessment date to which the notice referred to in subsection (b) applies, the taxpayer must file a notice in writing with the county or township official referred to in subsection (a) not later than forty-five (45) days after the date of the notice referred to in subsection (b).

(d) A taxpayer may obtain a review by the county board of the assessment of the taxpayer's tangible property effective for an assessment date for which a notice of assessment is not given as described in subsection (b).



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B. SEA 517 con't:

To obtain the review, the taxpayer must file a notice in writing with the township assessor, or the county assessor if the township is not served by a township assessor. The right of a taxpayer to obtain a review under this subsection for an assessment date for which a notice of assessment is not given does not relieve an assessing official of the duty to provide the taxpayer with the notice of assessment as otherwise required by this article. The notice to obtain a review must be filed not later than the later of:



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B. SEA 517 con't:

(1) May 10 of the year; or

(2) forty-five (45) days after the date of the tax statement mailed by the county treasurer, regardless of whether the assessing official changes the taxpayer's assessment.

(e) A change in an assessment made as a result of a notice for review filed by a taxpayer under subsection (d) after the time prescribed in subsection (d) becomes effective for the next assessment date. A change in an assessment made as a result of a notice for review filed by a taxpayer under subsection (c) or (d) remains in effect from the assessment date for which the change is made until the next assessment date for which the assessment is changed under this article.



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B. SEA 517 con't:

(f) The written notice filed by a taxpayer under subsection (c) or (d) must include the following information:

- (1) The name of the taxpayer.
- (2) The address and parcel or key number of the property.
- (3) The address and telephone number of the taxpayer.

(g) The filing of a notice under subsection (c) or (d):

- (1) initiates a review under this section; and
- (2) constitutes a request by the taxpayer for a preliminary informal meeting with the official referred to in subsection (a).



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B. SEA 517 con't:

(h) A county or township official who receives a notice for review filed by a taxpayer under subsection (c) or (d) shall:

(1) immediately forward the notice to the county board; and

(2) attempt to hold a preliminary informal meeting with the taxpayer to resolve as many issues as possible by:

(A) discussing the specifics of the taxpayer's assessment or deduction;

(B) reviewing the taxpayer's property record card;

(C) explaining to the taxpayer how the assessment or deduction was determined;



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B. SEA 517 con't:

- (D) providing to the taxpayer information about the statutes, rules, and guidelines that govern the determination of the assessment or deduction;
- (E) noting and considering objections of the taxpayer;
- (F) considering all errors alleged by the taxpayer; and
- (G) otherwise educating the taxpayer about:
 - (i) the taxpayer's assessment or deduction
 - (ii) the assessment or deduction process; and
 - (iii) the assessment or deduction appeal process.



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B. SEA 517 con't:

(i) Not later than ten (10) days after the informal preliminary meeting, the official referred to in subsection (a) shall forward to the county auditor and the county board the results of the conference on a form prescribed by the department of local government finance that must be completed and signed by the taxpayer and the official. The form must indicate the following:

(1) If the taxpayer and the official agree on the resolution of all assessment or deduction issues in the review, a statement of:



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B. SEA 517 con't:

(A) those issues; and

(B) the assessed value of the tangible property or the amount of the deduction that results from the resolution of those issues in the manner agreed to by the taxpayer and the official.

(2) If the taxpayer and the official do not agree on the resolution of all assessment or deduction issues in the review:

(A) a statement of those issues; and

(B) the identification of:

(i) the issues on which the taxpayer and the official agree; and

(ii) the issues on which the taxpayer and the official disagree.



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B. SEA 517 con't:

(j) If the county board receives a form referred to in subsection (i)(1) before the hearing scheduled under subsection (k):

- (1) the county board shall cancel the hearing;
- (2) the county official referred to in subsection (a) shall give notice to the taxpayer, the county board, the county assessor, and the county auditor of the assessment or deduction in the amount referred to in subsection (i)(1)(B); and
- (3) if the matter in issue is the assessment of tangible property, the county board may reserve the right to change the assessment under IC 6-1.1-13.



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B. SEA 517 con't:

(k) If:

- (1) subsection (i)(2) applies; or
- (2) the county board does not receive a form referred to in subsection (i) not later than one hundred twenty (120) days after the date of the notice for review filed by the taxpayer under subsection (c) or (d); the county board shall hold a hearing on a review under this subsection not later than one hundred eighty (180) days after the date of that notice. The county board shall, by mail, give at least thirty (30) days notice of the date, time, and place fixed for the hearing to the taxpayer and the county or township official with whom the taxpayer filed the notice for review.



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B. SEA 517 con't:

The taxpayer and the county or township official with whom the taxpayer filed the notice for review are parties to the proceeding before the county board. A taxpayer may request a continuance of the hearing by filing, at least twenty (20) days before the hearing date, a request for continuance with the board and the county or township official with evidence supporting a just cause for the continuance. The board shall, not later than ten (10) days after the date the request for a continuance is filed, either find that the taxpayer has demonstrated a just cause for a continuance and grant the taxpayer the continuance, or deny the continuance.



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B. SEA 517 con't:

A taxpayer may request that the board take action without the taxpayer being present and that the board make a decision based on the evidence already submitted to the board by filing, at least eight (8) days before the hearing date, a request with the board and the county or township official. A taxpayer may withdraw a petition by filing, at least eight (8) days before the hearing date, a notice of withdrawal with the board and the county or township official.

(l) At the hearing required under subsection (k):

(1) the taxpayer may present the taxpayer's reasons for disagreement with the assessment or deduction; and



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B. SEA 517 con't:

(2) the county or township official with whom the taxpayer filed the notice for review must present:

(A) the basis for the assessment or deduction decision; and

(B) the reasons the taxpayer's contentions should be denied.

A penalty of fifty dollars (\$50) shall be assessed against the taxpayer if the taxpayer or representative fails to appear at the hearing and, under subsection (k), the taxpayer's request for continuance is denied, or the taxpayer's request for continuance, request for the board to take action without the taxpayer being present, or withdrawal is not timely filed.



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B. SEA 517 con't:

A taxpayer may appeal the assessment of the penalty to the Indiana board or directly to the tax court. **The penalty may not be added as an amount owed on the property tax statement under IC 6-1.1-22 or IC 6-1.1-22.5.**

***Changes to property tax refunds will be covered in a later section.**



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III. Managing the Appeals

A. Best Practices

1. Great deference is given to local control. It is incumbent on each county to effectively and efficiently manage their property tax appeals.
2. **It is strongly recommended that counties develop and use an appeal tracking tool (e.g. database) for processing appeals in an expeditious manner.**
3. Start with the end in mind. If you are faced with a backlog of appeals, develop a workable plan (e.g. a Gantt Chart) that will show how many appeals need to be addressed on a daily/weekly/monthly/annual basis.



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4. Similar to a reassessment plan, this will have milestones/benchmarks. It will also show if additional resources need to be allocated.
5. One county thought “outside the box.” They mailed a postcard to every residential appeal that was outstanding. With a signature, the appeal could be withdrawn or a PTABOA date could be selected.
6. Because of the change in the appeal hearing process (e.g. 30 day notice, fines for not showing up, etc.), there should not be an issue of “no-shows.” However, hearings could be scheduled in a tight timeframe (with a realistic amount of time for each appeal).



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B. Commercial Appeals

1. Income models can be helpful, especially for those properties with a good database of income and expense information. For example, a model may show the average square foot amounts for various retail properties (e.g. stand-alone stores, strip centers, shopping centers, etc.).
2. Be cognizant of any statutory restrictions (e.g. Rental properties, Low Income Housing, etc.).



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C. Other Practices/Ideas

1. One county has created an on-line appeal process. This has resulted in fewer errors (i.e. double entry), and has helped with organization (i.e. having a process to notify the taxpayer [e-mail]; knowing exactly when the appeal was filed; etc.). Taxpayers still can file the traditional way if needed.
2. Another county has all of their assessed values, sales, market information, neighborhoods, etc. on-line so that a taxpayer can see exactly what their assessment is in relation to their neighbors, and the sales used in the assessment process.



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3. Utilize visual aids to chart the progress toward expectations.
4. “The buck stops here!” Do not pass appeals on to the next guy/level if they can be addressed/resolved. Depending on the nature of the appeal, a taxpayer’s best opportunity for resolving the appeal may be at the local level (either in the informal conference process or at the PTABOA level).
5. Develop a plan to deal with future appeals.



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IV. Common Issues/Problems:

A. **Evidence:** What type of evidence is required in the appeal process?

There are a variety of things a taxpayer may use/request to be considered in the appeals process, including:

- A USPAP compliant appraisal (NOTE: An appraisal is not required in the appeal process).
- Actual construction costs (both Direct and Indirect)
- The sale of the subject property (if an “arms-length” transaction).
- Sales of comparable properties.



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A. Evidence: NOTE: Per IN Code 6-1.1-15-18 (below), there are restrictions on the proximity of comparable properties:

IC 6-1.1-15-18

Value in use; evidence of comparable properties

Sec. 18.

(a) This section applies to an appeal to which this chapter applies, including any review by the board of tax review or the tax court.

(b) This section applies to any proceeding pending or commenced after June 30, 2012.

(c) To accurately determine market-value-in-use, a taxpayer or an assessing official may:



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A. **Evidence:** NOTE con't:

(1) in a proceeding concerning residential property, introduce evidence of the assessments of comparable properties located in the same taxing district or within two (2) miles of a boundary of the taxing district; and

(2) in a proceeding concerning property that is not residential property, introduce evidence of the assessments of any relevant, comparable property.

However, in a proceeding described in subdivision (2), preference shall be given to comparable properties that are located in the same taxing district or within two (2) miles of a boundary of the taxing district.



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A. **Evidence:** NOTE con't:

- The determination of whether properties are comparable shall be made using generally accepted appraisal and assessment practices.

As added by P.L.146-2012, SEC.5.

- “Taxpayer must explain how each piece of evidence relates to its requested assessment based on market value-in-use as of the relevant valuation date.”
- It is the taxpayer’s duty to walk the board through every element of the analysis.



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A. **Evidence:** NOTE con't:

- Once the taxpayer establishes a prima facie case, the burden shifts to the assessor to refute the taxpayer's evidence.
- Per HEA 1001 – 2009 (ss), the assessing official now has the burden of proof where the assessment increased more than five percent (5%) over the preceding assessment date. Effective July 1, 2009.
- It is the Department's opinion that this burden of proof is applicable during a period of a General Reassessment.
- Assessors can provide their own evidence to support their assessment or to challenge evidence presented by the taxpayer.



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A. **Evidence:** NOTE con't:

- An assessor cannot simply say that they reviewed the taxpayer's evidence and decided that it was not valid.
- They must be able to challenge it based on its merit and be able to demonstrate that the evidence lacks credibility.
- This challenge could be accomplished by identifying specific flaws in the taxpayer's evidence or by submitting evidence to demonstrate the flaws.



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A. **Evidence:** NOTE con't:

- Appraisals need to be analyzed to determine sales comparables being used in relationship to subject property. Adjustments being made to these sales comparables also should be analyzed.
- For income producing properties, income and expense statements.

B. **Specific Methodology:** Some property types, such as Rental Properties, Low Income Housing, and Golf Courses are statutorily required to be assessed using prescribed methods (e.g. the income approach to value).



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C. Who Can File an Appeal?: The owner of record on the assessment date. Additionally, the Indiana Board of Tax Review (IBTR) has previously ruled that others with an interest in the property may file an appeal (i.e. a person other than the owner on the assessment date may file an appeal if they are responsible for the property taxes due for that assessment date, even though they may not have owned the property on the assessment date).

D. What if an appeal is not timely filed?: Although a taxpayer ultimately may not be successful with their appeal, their due process rights should be upheld, and they should be allowed to file an appeal.



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E. Preliminary Hearing Procedures: Can the Assessor have a set amount of time for each preliminary hearing (e.g. 15 minutes)?

Great deference is given to local control, meaning the local officials can determine a set timeframe, hearing schedule, or procedures for the preliminary hearing. Also, the Property Tax Assessment Board of Appeals (PTABOA) may determine their own procedural rules.

F. Taxpayer Representative notification: Should the Taxpayer Representative be given notification of the PTABOA hearing? Could the Taxpayer Representative be assessed a \$50 penalty as a “no-show” even though he/she might not have received notice of the hearing?



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F. Taxpayer Representative notification: con't:

IC 6-1.1-15-1(k) If:

- (1) subsection (i)(2) applies; or
- (2) the county board does not receive a form referred to in subsection (i) not later than one hundred twenty (120) days after the date of the notice for review filed by the taxpayer under subsection (c) or (d); the county board shall hold a hearing on a review under this subsection not later than one hundred eighty (180) days after the date of that notice. The county board shall, by mail, give at least thirty (30) days notice of the date, time, and place fixed for the hearing to the taxpayer and the county or township official with whom the taxpayer filed the notice for review. (Emphasis added)



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F. Taxpayer Representative notification: con't:

Hence, the local officials are not required to notify the Taxpayer Representative of the hearing, although some counties will send a courtesy copy of the notice. It is incumbent upon the taxpayer to notify his/her Tax Representative of the hearing, and if the taxpayer or Tax Representative do not show up for the hearing, they could receive a \$50 “no show” penalty.

G. CPA Representation: Can a CPA file appeals on a Taxpayer's behalf on real estate?

A CPA may only represent a client in a matter that relates only to personal property taxation. Otherwise, in order to represent a client, the CPA would need to be a Certified Tax Representative, and would need to complete/file a Power of Attorney form.



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G. CPA Representation: con't:

50 IAC 15-5-1 Definitions

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-2-4; IC 6-1.1-15; IC 6-1.1-28-1; IC 6-1.1-30-11; IC 6-1.5

Sec. 1. The following definitions apply throughout this rule:

(1) "Practice before the property tax assessment board of appeals or the department" is the participation in all matters connected with a presentation to the property tax assessment board of appeals, the department, or any of their officers or employees relating to a client's rights, privileges, or liabilities under Indiana's property tax laws or rules. Such presentations include the following:



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G. CPA Representation: con't:

- (A) Preparing and filing necessary documents, except personal property returns.
 - (B) Corresponding and communicating with the property tax assessment board of appeals or the department.
 - (C) Representing a client at hearings, on-site inspections, and meetings.
- (2) "Property tax assessment board of appeals" is the county property tax assessment board of appeals established under IC 6-1.1-28-1.



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G. **CPA Representation:** con't:

(3) "Tax representative" is a person who represents another person at a proceeding before the property tax assessment board of appeals or the department. The term does not include:

(A) the owner of the property (or person liable for the taxes under IC 6-1.1-2-4) that is the subject of the appeal;

(B) a permanent full-time employee of the owner of the property (or person liable for the taxes under IC 6-1.1-2-4) who is the subject of the appeal;

(C) representatives of local units of government appearing on behalf of the unit;



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G. CPA Representation: con't:

(D) a certified public accountant, when the certified public accountant is representing a client in a matter that relates only to personal property taxation; or

(E) an attorney who is a member in good standing of the Indiana bar or any person who is a member in good standing of any other state bar and who has been granted leave by the department to appear pro hac vice.

(4) "Indiana board" means the Indiana board of tax review established under IC 6-1.5, et seq.

(Department of Local Government Finance; 50 IAC 15-5-1; filed Dec 5, 2000, 2:32 p.m.: 24 IR 947; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1519) (Emphasis Added)



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H. Assessment Increases as a result of an appeal: Can an assessment increase as a result of an appeal?

Yes, per Indiana Code 6-1.1-9-4 (a), undervalued or omitted property may be increased within three years after the assessment date for that prior year (as long as proper notice is given to the taxpayer). The assessing official should; however, be prepared to defend the increase in the assessed value and possibly explain why the assessment has been increased.



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H. Assessment Increases as a result of an appeal:

IC 6-1.1-9-4

Prior year assessments; notice; bona fide purchasers; lien exemptions

Sec. 4.

(a) Real property may be assessed, or its assessed value increased, for a prior year under this chapter only if the notice required by section 1 of this chapter is given within three (3) years after the assessment date for that prior year.

(b) With respect to real property which is owned by a bona fide purchaser without knowledge, no lien attaches for any property taxes which result from an assessment, or an increase in assessed value, made under this chapter for any period before his purchase of the property. *(Formerly: Acts 1975, P.L.47, SEC.1.)*



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V. PTABOA Role/Responsibility:

- The Assessor should have an appeal tracking process (see [http://www.in.gov/dlgf/files/100201 - Wood Memo - Assessment Appeals.pdf](http://www.in.gov/dlgf/files/100201_-_Wood_Memo_-_Assessment_Appeals.pdf)) to ensure all appeals are addressed in a timely manner.
- HEA 1001 – 2009 (ss) allows the County Commissioners to determine if they want a three (3) or five (5) member PTABOA (effective July 1, 2009).
- The PTABOA must be comprised of individuals “knowledgeable in the valuation of property.”



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Five (5) Member PTABOA:

- Commissioners appoint three (3) members.
- County fiscal body (i.e. Council) appoints two (2) members.
- At least one (1) of the members appointed by the fiscal body must be a Level II or III assessor-appraiser.
- At least one (1) of the commissioner's appointments must be a Level II or III; however, they may waive this requirement.
- No more than 3 of the 5 members may be of the same political party, and at least 3 of the 5 are residents of the county.



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Three (3) Member PTABOA

- The county fiscal body appoints 1 individual who must be a Level II or III assessor-appraiser.
- The commissioners appoint 2 freehold members. Not more than 2 of the members may be of the same political party and at least 2 of the members are residents of the county.
- At least 1 of the commissioner's appointments must be a Level II or III; however, they may waive this requirement.



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- Compensation & policies are local issues.
- Board members shall receive compensation on a per diem basis for each day of actual service.
- The county council shall fix the rate of compensation.
- The county assessor shall keep an attendance record
- Certifies the number of days to the county commissioners.



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The Board has the power to:

- Subpoena witnesses
- Examine witnesses, under oath, on the assessment or valuation of property
- Compel witnesses to answer its questions relevant to the assessment of valuation of property
- Order the production of relevant papers



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- The Board may hire additional field representatives and hearing examiners to assist the Board in performing its duties and functions.
- Representatives and examiners must be Level II or III certified.
- The number and compensation of representatives and examiners employed are subject to the appropriations for that purpose by the county council.



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- Representatives and examiners are afforded the same powers as members of the Board concerning the review of and hearings on an assessment.
- Representatives and examiners shall report their findings to the Board in writing.
- The Board can accept the representatives and examiner's recommendation or hold further hearings and take additional evidence.
- The Board makes the final decision on each matter.



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- The PTABOA shall, by mail, give notice of the date, time, and place fixed for the hearing to the taxpayer and the county or township official with whom the taxpayer filed the notice for review. (Form 114)
- The PTABOA may not require a taxpayer to file documentary evidence or summaries of statements of testimonial evidence before the hearing.
- Taxpayer may appeal to the IBTR if the hearing is not held by the PTABOA within 180 days of the appeal.
- Taxpayer may appeal to the IBTR within 45 days of the PTABOA decision.



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- Question: So how do I, as a Board member, decide that a prima facie case has been made?
- Answer: That decision must be determined on a case-by-case basis as the evidence and circumstances on each hearing will vary. Becoming familiar with the available resources, such as IBTR decisions, Tax Court decisions, etc. could be very helpful.
- Question: Should the Board reschedule a hearing because the taxpayer is not prepared to properly present the necessary evidence?
- Answer: This decision would be left up to the Board; however, the taxpayer should be prepared to present a case since it is their appeal so this type of delay should rarely happen.



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- Question: Should the Board visit the properties on appeal?
- Answer: Conducting an on-site inspection would be a rare occurrence when considering the Board's use of time and budgetary constraints.
- Question: What constitutes a quorum for the Board?
- Answer: IC 6-1.1-28-1 states that a majority of the PTABOA that includes at least one (1) certified level two or level three assessor-appraiser constitutes a quorum.



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- Question: Is the determination based on the majority of the quorum or the whole board?
- Answer: IC 6-1.1-28-1(a) states, in pertinent part: “Any question properly before the board may be decided by the agreement of a majority of the **whole board**.”
- Question: Can a taxpayer refuse to discuss the issues with a representative or examiner and request a hearing before the Board?
- Answer: Yes. However, taxpayers may find that meeting with a representative or examiner will expedite the appeals process.



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- Question: Is it the job of the Board to find something wrong in every appeal so that the assessed value can be reduced for every taxpayer who is unhappy?
- Answer: No, decisions should be made based on the merits of the appeal and the evidence presented to the Board.

IC 6-1.1-13-3

Additions of undervalued or omitted property to list

Sec. 3. A county property tax assessment board of appeals shall, on its own motion or on sufficient cause shown by any person, add to the assessment lists the names of persons, the correct assessed value of undervalued or omitted personal property, and the description and correct assessed value of real property undervalued on or omitted from the lists.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.6-1997, SEC.62.



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VI. Form 11 vs. Tax Statement:

A. When can a Tax Statement be used in lieu of a Form 11 to file an appeal?

IC 6-1.1-4-22 Version b

Amounts of assessment or reassessment; notice

Note: This version of section effective 1-1-2013. See also preceding version of this section, effective until 1-1-2013.

Sec. 22.

(a) If any assessing official assesses or reassesses any real property under this article (including an annual adjustment under section 4.5 of this chapter), the official shall give notice to the taxpayer and the county assessor, by mail or by using electronic mail that



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includes a secure Internet link to the information in the notice, of the amount of the assessment or reassessment.

(b) Each township or county assessor shall provide the notice required by this section by the earlier of:

(1) ninety (90) days after the assessor:

(A) completes the appraisal of a parcel; or

(B) receives a report for a parcel from a professional appraiser or professional appraisal firm; or

(2) April 10 of the year containing the assessment date for which the assessment or reassessment first applies.



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(c) The notice required by this section is in addition to any required notice of assessment or reassessment included in a property tax statement under IC 6-1.1-22 or IC 6-1.1-22.5.

(d) The notice required by this section must include notice to the person of the opportunity to appeal the assessed valuation under IC 6-1.1-15-1.

(e) Notice of the opportunity to appeal the assessed valuation required under subsection (d) must include the following:

(1) The procedure that a taxpayer must follow to appeal the assessment or reassessment.



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(2) The forms that must be filed for an appeal of the assessment or reassessment.

(3) Notice that an appeal of the assessment or reassessment requires evidence relevant to the true tax value of the taxpayer's property as of the assessment date.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by Acts 1977, P.L.64, SEC.2; P.L.6-1997, SEC.19; P.L.146-2008, SEC.76; P.L.136-2009, SEC.4; P.L.112-2012, SEC.16.



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IC 6-1.1-15-13

Tax bill as notice

Sec. 13. If notice of the action of a board or official is not otherwise given in accordance with the general assessment provisions of this article, the receipt by the taxpayer of the tax bill resulting from that action is the taxpayer's notice for the purpose of determining the taxpayer's right to obtain a review or initiate an appeal under this chapter.

(Formerly: Acts 1975, P.L.47, SEC.1.)



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B. We are having an issue with receiving returned Form 11's in the mail. Form 11's are returned and many of these have no postmark date. How do we handle taxpayers who are still receiving Form 11's that do not have a postmark date or receive them with late postmarks (i.e. well after the appeal filing deadline and/or tax bill)?

There are a few options:

- If all of the Notices of Assessment were sent out at the same time, and the county established a certain date for filing appeals, if a taxpayer did not file an appeal by the deadline, they could not file an appeal for that particular year. In other words, even though there may



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not be a postmark on the Notice, in order to be fair and consistent, it would be the same filing deadline for everyone, regardless if they received a Notice of Assessment. Even though there may not be a postmark date – there should have been a date on the Form 11 itself. However, you could afford the taxpayer their due process, and allow them to go ahead and file an appeal, knowing that in all likelihood it will be denied for failing to file a timely appeal, and if the PTABOA agrees, then the taxpayer could file an appeal of the determination to the IBTR.



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- Since the postmark date of the Notice of Assessment may not be known, or there is a May postmark date, as an alternative for taxpayers in this situation, the tax bill could have served as the first notification of the change in assessment. Therefore, instead of trying to estimate if there was a postmark or the postmark date on the Notices, in order to be fair/consistent, for those taxpayers that fall in this category, you could establish a 45 day timeframe from the date of the tax bills.



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- For each individual taxpayer/Notice of Assessment that falls into this category, set a 45 day timeframe from the postmark date to determine if they filed a timely appeal. For those Notices without a postmark, it is obviously difficult to determine when they were mailed out – unless the date is on the Notice. Although deference is given to local control, this would probably be the least viable option to consider.



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- There are three recent IBTR Determinations (among many) pertaining to the timeliness of filing an appeal:

http://www.in.gov/ibtr/files/Kirk_15-006-11-1-5-00564.pdf

http://www.in.gov/ibtr/files/Kirk_15-006-11-1-5-00564.pdf

http://www.in.gov/ibtr/files/Huisman_15-007-11-1-5-00579.pdf



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VII. Refunds

A. SEA 152:

SECTION 2. IC 6-1.1-26-5, AS AMENDED BY P.L.120-2012, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5.

(a) When a claim for refund filed under section 1 of this chapter is allowed either by the county board of commissioners, the department of local government finance, the Indiana board, or the Indiana tax court on appeal, the claimant is entitled to a refund. The amount of the refund shall equal the amount of the claim so allowed plus, with respect to claims for refund filed after December 31, 2001, interest at the rate established for excess tax



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payments by the commissioner of the department of state revenue under IC 6-8.1-10-1 from the date on which the taxes were paid or payable, whichever is later, to the date of the refund. **The interest shall be computed using the rate in effect for each particular year covered by the refund.** The county auditor shall, without an appropriation being required, issue a warrant to the claimant payable from the county general fund for the amount due the claimant under this section.

(b) In the June or December settlement and apportionment of taxes, or both the June and December settlement and apportionment of taxes, immediately following a refund made under this section the county



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auditor shall deduct the amount refunded from the gross tax collections of the taxing units for which the refunded taxes were originally paid and shall pay the amount so deducted into the general fund of the county. However, the county auditor shall make the deductions and payments required by this subsection not later than the December settlement and apportionment.



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SECTION 3. IC 6-1.1-37-9, AS AMENDED BY P.L.120-2012, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]:

Sec. 9.

(a) This section applies when:

(1) an assessment is made or increased after the date or dates on which the taxes for the year for which the assessment is made were originally due;

(2) the assessment upon which a taxpayer has been paying taxes under IC 6-1.1-15-10(a)(1) or IC 6-1.1-15-10(a)(2) while a petition for review or a judicial proceeding has been pending is less than the assessment that results from the final determination of the petition for review or judicial proceeding; or



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(3) the collection of certain ad valorem property taxes has been enjoined under IC 33-26-6-2, and under the final determination of the petition for judicial review the taxpayer is liable for at least part of those taxes.

(b) Except as provided in subsections (c) and (g), a taxpayer shall pay interest on the taxes the taxpayer is required to pay as a result of an action or a determination described in subsection (a) at the rate established by the commissioner of the department of state revenue under IC 6-8.1-10-1 from the original due date or dates for those taxes to:

(1) the date of payment; or



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(2) the date on which penalties for the late payment of a tax installment may be charged under subsection (e) or (f); whichever occurs first. **The interest shall be computed using the rate in effect for each particular year in which the interest accrued.**

(c) Except as provided in subsection (g), a taxpayer shall pay interest on the taxes the taxpayer is ultimately required to pay in excess of the amount that the taxpayer is required to pay under IC 6-1.1-15-10(a)(1) while a petition for review or a judicial proceeding has been pending at the overpayment rate established under Section 6621(c)(1) of the Internal Revenue Code in effect on the original due date or dates for those taxes from the original due date or dates for those taxes to:



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- (1) the date of payment; or
 - (2) the date on which penalties for the late payment of a tax installment may be charged under subsection (e) or (f); whichever occurs first.
- (d) With respect to an action or determination described in subsection (a), the taxpayer shall pay the taxes resulting from that action or determination and the interest prescribed under subsection (b) or (c) on or before:
- (1) the next May 10; or
 - (2) the next November 10;
- whichever occurs first.



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(e) A taxpayer shall, to the extent that the penalty is not waived under section 10.1 or 10.7 of this chapter, begin paying the penalty prescribed in section 10 of this chapter on the day after the date for payment prescribed in subsection (d) if:

(1) the taxpayer has not paid the amount of taxes resulting from the action or determination; and

(2) the taxpayer either:

(A) received notice of the taxes the taxpayer is required to pay as a result of the action or determination at least thirty (30) days before the date for payment; or

(B) voluntarily signed and filed an assessment return for the taxes.



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(f) If subsection (e) does not apply, a taxpayer who has not paid the amount of taxes resulting from the action or determination shall, to the extent that the penalty is not waived under section 10.1 or 10.7 of this chapter, begin paying the penalty prescribed in section 10 of this chapter on:

- (1) the next May 10 which follows the date for payment prescribed in subsection (d); or
- (2) the next November 10 which follows the date for payment prescribed in subsection (d); whichever occurs first.

(g) A taxpayer is not subject to the payment of interest on real property assessments under subsection (b) or (c) if:



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- (1) an assessment is made or increased after the date or dates on which the taxes for the year for which the assessment is made were due;
- (2) the assessment or the assessment increase is made as the result of error or neglect by the assessor or by any other official involved with the assessment of property or the collection of property taxes; and
- (3) the assessment:
 - (A) would have been made on the normal assessment date if the error or neglect had not occurred; or
 - (B) increase would have been included in the assessment on the normal annual assessment date if the error or neglect had not occurred.



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SECTION 4. IC 6-1.1-37-11, AS AMENDED BY SEA 85-2013, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]:

Sec. 11.

(a) If a taxpayer is entitled to a property tax refund or credit because an assessment is decreased, the taxpayer shall also be paid, or credited with, interest on the excess taxes that the taxpayer paid at the rate of four percent (4%) per annum.

established for excess tax payments by the commissioner of the department of state revenue under IC 6-8.1-10-1.

However, in the case of an assessment that is decreased by the Indiana board or the Indiana tax court, the taxpayer is not entitled to the greater of five hundred dollars (\$500) or twenty percent (20%) of the interest to which the taxpayer



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would otherwise be entitled on the excess taxes unless the taxpayer affirms, under penalty of perjury, that substantive evidence supporting the taxpayer's position had been:

- (1) presented by the taxpayer to the assessor before; or
- (2) introduced by the taxpayer at; the hearing held by the county property tax assessment board of appeals. An appraisal may not be required by the county property tax assessment board of appeals or the assessor in a proceeding before the county property tax assessment board of appeals or in a preliminary informal meeting under IC 6-1.1-15-1(h)(2).



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(b) For purposes of this section and except as provided in subsection (c), the interest shall be computed:

(1) from the date on which the taxes were paid or due, whichever is later, to the date of the refund or credit;

and

(2) using the rate in effect under IC 6-8.1-10-1 for each particular year covered by the refund or credit.

If a taxpayer is sent a provisional tax statement and is later sent a final or reconciling tax statement, interest shall be computed after the date on which the taxes were paid or first due under the provisional tax statement, whichever is later, through the date of the refund or credit.



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(c) This subsection applies if a taxpayer who is entitled to a refund or credit does not make a written request for the refund or credit to the county auditor within forty-five (45) days after the final determination of the county property tax assessment board of appeals, the state board of tax commissioners, the department of local government finance, the Indiana board, or the tax court that entitles the taxpayer to the refund or credit. In the case of a taxpayer described in this subsection, the interest shall be computed from the date on which the taxes were paid or due to the date that is forty-five (45) days after the final determination of the county property tax assessment board of appeals, the state board of tax commissioners, the department of local



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government finance, the Indiana board of tax review, or the Indiana tax court. In any event, a property tax refund or credit must be issued not later than ninety (90) days after the request is received.



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B. HEA 1545:

SECTION 23. IC 6-1.1-26-5, AS AMENDED BY P.L.120-2012, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]:

Sec. 5.

(a) When a claim for refund filed under section 1 of this chapter is allowed either by the county board of commissioners, the department of local government finance, the Indiana board, or the Indiana tax court on appeal, the claimant is entitled to a refund. The amount of the refund shall equal the amount of the claim so allowed plus, with respect to claims for refund filed after December 31, 2001, interest at the rate established for excess tax payments by



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the commissioner of the department of state revenue under IC 6-8.1-10-1 from the date on which the taxes were paid or payable, whichever is later, to the date of the refund. **The interest shall be computed using the rate in effect for each particular year covered by the refund.** The county auditor shall, without an appropriation being required, issue a warrant to the claimant payable from the county general fund for the amount due the claimant under this section.

(b) In the June or December settlement and apportionment of taxes, or both the June and December settlement and apportionment of taxes, immediately following a refund made under this section the county auditor shall deduct the



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amount refunded from the gross tax collections of the taxing units for which the refunded taxes were originally paid and shall pay the amount so deducted into the general fund of the county. However, the county auditor shall make the deductions and payments required by this subsection not later than the December settlement and apportionment.

SECTION 24. IC 6-1.1-37-9, AS AMENDED BY P.L.120-2012, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]:

Sec. 9.

(a) This section applies when:



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- (1) an assessment is made or increased after the date or dates on which the taxes for the year for which the assessment is made were originally due;
- (2) the assessment upon which a taxpayer has been paying taxes under IC 6-1.1-15-10(a)(1) or IC 6-1.1-15-10(a)(2) while a petition for review or a judicial proceeding has been pending is less than the assessment that results from the final determination of the petition for review or judicial proceeding; or
- (3) the collection of certain ad valorem property taxes has been enjoined under IC 33-26-6-2, and under the final determination of the petition for judicial review the taxpayer is liable for at least part of those taxes.



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(b) Except as provided in subsections (c) and (g), a taxpayer shall pay interest on the taxes the taxpayer is required to pay as a result of an action or a determination described in subsection (a) at the rate established by the commissioner of the department of state revenue under IC 6-8.1-10-1 from the original due date or dates for those taxes to:

- (1) the date of payment; or
- (2) the date on which penalties for the late payment of a tax installment may be charged under subsection (e) or (f); whichever occurs first. **The interest shall be computed using the rate in effect for each particular year in which the interest accrued.**



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(c) Except as provided in subsection (g), a taxpayer shall pay interest on the taxes the taxpayer is ultimately required to pay in excess of the amount that the taxpayer is required to pay under IC 6-1.1-15-10(a)(1) while a petition for review or a judicial proceeding has been pending at the overpayment rate established under Section 6621(c)(1) of the Internal Revenue Code in effect on the original due date or dates for those taxes from the original due date or dates for those taxes to:

- (1) the date of payment; or
- (2) the date on which penalties for the late payment of a tax installment may be charged under subsection (e) or (f); whichever occurs first.



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(d) With respect to an action or determination described in subsection (a), the taxpayer shall pay the taxes resulting from that action or determination and the interest prescribed under subsection (b) or (c) on or before:

- (1) the next May 10; or
 - (2) the next November 10;
- whichever occurs first.

(e) A taxpayer shall, to the extent that the penalty is not waived under section 10.1 or 10.7 of this chapter, begin paying the penalty prescribed in section 10 of this chapter on the day after the date for payment prescribed in subsection (d) if:

- (1) the taxpayer has not paid the amount of taxes resulting from the action or determination; and
- (2) the taxpayer either:



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(A) received notice of the taxes the taxpayer is required to pay as a result of the action or determination at least thirty (30) days before the date for payment; or

(B) voluntarily signed and filed an assessment return for the taxes.

(f) If subsection (e) does not apply, a taxpayer who has not paid the amount of taxes resulting from the action or determination shall, to the extent that the penalty is not waived under section 10.1 or 10.7 of this chapter, begin paying the penalty prescribed in section 10 of this chapter on:

(1) the next May 10 which follows the date for payment prescribed in subsection (d); or

(2) the next November 10 which follows the date for payment prescribed in subsection (d); whichever occurs first.



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(g) A taxpayer is not subject to the payment of interest on real property assessments under subsection (b) or (c) if:

- (1) an assessment is made or increased after the date or dates on which the taxes for the year for which the assessment is made were due;
- (2) the assessment or the assessment increase is made as the result of error or neglect by the assessor or by any other official involved with the assessment of property or the collection of property taxes; and
- (3) the assessment:
 - (A) would have been made on the normal assessment date if the error or neglect had not occurred; or
 - (B) increase would have been included in the assessment on the normal annual assessment date if the error or neglect had not occurred.



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SECTION 25. IC 6-1.1-37-11, AS AMENDED BY SEA 85-2013, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]:

Sec. 11.

(a) If a taxpayer is entitled to a property tax refund or credit because an assessment is decreased, the taxpayer shall also be paid, or credited with, interest on the excess taxes that the taxpayer paid at the rate of four percent (4%) per annum, **established for excess tax payments by the commissioner of the department of state revenue under IC 6-8.1-10-1.**

However, in the case of an assessment that is decreased by the Indiana board or the Indiana tax court, the taxpayer is not entitled to the greater of five hundred dollars (\$500) or twenty percent (20%) of the interest to which the taxpayer would



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otherwise be entitled on the excess taxes unless the taxpayer affirms, under penalty of perjury, that substantive evidence supporting the taxpayer's position had been:

- (1) presented by the taxpayer to the assessor before; or
- (2) introduced by the taxpayer at; the hearing held by the county property tax assessment board of appeals. An appraisal may not be required by the county property tax assessment board of appeals or the assessor in a proceeding before the county property tax assessment board of appeals or in a preliminary informal meeting under IC 6-1.1-15-1(h)(2).



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(b) For purposes of this section and except as provided in subsection (c), the interest shall be computed:

(1) from the date on which the taxes were paid or due, whichever is later, to the date of the refund or credit;

and

(2) using the rate in effect under IC 6-8.1-10-1 for each particular year covered by the refund or credit.

If a taxpayer is sent a provisional tax statement and is later sent a final or reconciling tax statement, interest shall be computed after the date on which the taxes were paid or first due under the provisional tax statement, whichever is later, through the date of the refund or credit.



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(c) This subsection applies if a taxpayer who is entitled to a refund or credit does not make a written request for the refund or credit to the county auditor within forty-five (45) days after the final determination of the county property tax assessment board of appeals, the state board of tax commissioners, the department of local government finance, the Indiana board, or the tax court that entitles the taxpayer to the refund or credit. In the case of a taxpayer described in this subsection, the interest shall be computed from the date on which the taxes were paid or due to the date that is forty-five (45) days after the final determination of the county property tax assessment board of appeals, the state board of tax commissioners, the department of local government



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finance, the Indiana board of tax review, or the Indiana tax court. In any event, a property tax refund or credit must be issued not later than ninety (90) days after the request is received.



Questions

Questions ?????



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